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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140

OFFICE OF
COMPLIANCE AND ENFORCEMENT

MAR 4 2019

Reply To: OCE-201

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

NOTICE OF VIOLATION

Mr. Travis Krebs
Owner
Black Canyon Trout Farm
1681 Black Canyon Lane
Grace, Idaho 83241

Re: Black Canyon Trout Farm
NPDES Permit Number IDG130113

Dear Mr. Krebs:

On behalf of the U.S. Environmental Protection Agency (EPA), I would like to express my appreciation for your time and cooperation during the June 22, 2018, Clean Water Act (CWA) inspection of Black Canyon Trout Farm ("Facility") conducted by the Idaho Department of Environmental Quality (IDEQ) on behalf of EPA. The purpose of the inspection was to determine the Facility's compliance with the requirements of the Clean Water Act (CWA) and the National Pollutant Discharge Elimination System (NPDES) general permit IDG130000 ("Permit") for *Aquaculture Facilities in Idaho, subject to Wasteload Allocations under Selected Total Maximum Daily Loads*. In addition to the on-site inspection, EPA conducted an administrative file review, which included Discharge Monitoring Reports (DMRs) submitted by the Facility from February 2014 through January 2019. The purpose of this letter is to notify you of the results of the IDEQ inspection and EPA administrative file review.

ADMINISTRATIVE FILE REVIEW

Part V.B of the Permit states, in part, "The permittee must summarize monitoring results, including influent, effluent, and net results, each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent."

Part V.B.1 of the Permit states, in part, "The permittee must submit reports monthly, postmarked by the 20th day of the following month..."

Part V.B.2 of the Permit states, in part, "If, during the period when this permit is effective, EPA makes electronic reporting available, the permittee may, as an alternative to the requirements in §V.B.1, above, submit reports monthly, electronically by the 20th day of the following month, following guidance provided by EPA..."

Upon review of administrative files from February 2014 through January 2019, EPA discovered that the Facility failed to submit a DMR for the December 2014 reporting period, which was due by January 20, 2015. Additionally, the Facility did not submit the phosphorus parameter data for the July 2015 reporting

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period, which was due August 20, 2015. Failure to submit DMRs, or complete DMRs, is a violation of Parts V.B of the Permit.

JUNE 2018 INSPECTION

1. Part II.F of the Permit states, in part, "The permittee must develop a quality assurance (QA) plan for all monitoring required by this permit."

Part II.F.3.b of the Permit states, in part, that at a minimum the QA plan must include the "Description of flow measuring devices or methods used to measure influent and/or effluent flow at each point, calibration procedures, and calculations used to convert to flow units."

At the time of the inspection, the inspector reviewed the QA plan and found that it did not contain a "description of the flow measuring devices" and did not "outline the method used to measure effluent flow." Failure to include the minimum required information in the QA plan is a violation of Part II.F.3 of the Permit.

2. Part II.F.2 of the Permit states, "Throughout all sample collection and analysis activities, the permittee must use the EPA-approved quality assurance and quality control (QA/QC) and chain-of-custody procedures described in Requirements for Quality Assurance Project Plans (EPA/QA/R-5) and Guidance for Quality Assurance Project Plans (EPA/QA/G-5). The QA Plan must be prepared in the format that is specified in these documents."

At the time of the inspection, the inspector found that the chain-of-custody document for June 15, 2017, was missing required pieces of information including: the name of the individual collecting the sample and the date and time the sample was received by the analyzing laboratory. The inspector also found that the QA plan was not written in the prescribed format. Failure to include all required information on the chain-of-custody form and failure to prepare the QA plan in the format prescribed by EPA/QA/R-5 and EPA/QA/G-5 are violations of Part II.F.2 of the Permit.

3. Part V.C of the Permit states, "Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR §136.5."

Table II of 40 CFR §136.5 indicates that samples should be kept at a temperature of $\leq 6^{\circ}\text{C}$.

At the time of the inspection, the inspector reviewed the laboratory chain-of-custody document for June 15, 2017. The inspector noted that the document showed a sample temperature at receipt of 16.2°C . Failure to maintain a sample at the temperature specified in 40 CFR §136.5, i.e. $\leq 6^{\circ}\text{C}$, is a violation of Part V.C of the Permit.

4. Part VII.I of the Permit states, "Authorization to discharge under this permit may be automatically transferred to a new permittee on the date specified in the agreement only if:
 1. The current permittee notifies the Director of the Office of Water and Watersheds at least 30 days in advance of the proposed transfer date;
 2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility and liability between them; and

3. The Director does not notify the existing and new permittees of the intent to revoke and reissue the authorization to discharge."

At the time of the inspection, the inspector learned that the Facility was acquired by you, Mr. Krebs, in 2015. The inspector then reviewed the permit transfer letter. The letter indicated that the Permit transfer would become effective on August 5, 2015, which was also the date that the letter was received by the Office of Water and Watersheds. Failure to provide notice of permit transfer 30-days prior to the effective date is a violation of Part VII.I of the Permit.

5. Part II.F.2 of the Permit states, "Throughout all sample collection and analysis activities, the permittee must use the EPA-approved quality assurance and quality control (QA/QC) and chain-of-custody procedures described in Requirements for Quality Assurance Project Plans (EPA/QA/R-5) and Guidance for Quality Assurance Project Plans (EPA/QA/G-5). The QA Plan must be prepared in the format that is specified in these documents."

At the time of the inspection, the inspector found that the Quality Assurance (QA) plan was not written in the prescribed format. IDEQ emailed pdf files of EPA/QA/R-5 and EPA/QA/G-5 to the Facility to aid in properly formatting the QA plan. Failure to prepare the QA plan in the format prescribed by EPA/QA/R-5 and EPA/QA/G-5 is a violation of Part II.F.2 of the Permit.


The Black Canyon Trout Farm is required to respond, in writing, to the findings stated above within thirty (30) days of receipt of this letter. The response should include the causes of the violations, and the measures taken to address the current violations and prevent future violations. The request for information in this letter is made under the authority of Section 308 of the Clean Water Act (CWA), 33 U.S.C. § 1318. Your response should be sent to:

Mr. Raymond Andrews
Compliance Officer
Water and Wetlands Enforcement Unit
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, OCE - 201
Seattle, Washington 98101

Although our goal is to ensure NPDES facilities comply fully with their permits, the ultimate responsibility rests with the permittee. As such, I want to strongly encourage you to continue your efforts to maintain full knowledge of the Permit requirements, and other appropriate statutes, and to take appropriate measures to ensure compliance. Notwithstanding your response to this letter, EPA retains all rights to pursue enforcement actions to address these and any other violations.

If you have any questions concerning this matter, please do not hesitate to contact Raymond Andrews of my staff at (206) 553-4252.

Sincerely,


for Edward J. Kowalski
Director

cc: Mr. Tyler Fortunati
Idaho Department of Environmental Quality

Mr. Bruce Olenick
Idaho Department of Environmental Quality

Ms. Maria Lopez
Environmental Protection Agency

**Office of Compliance and Enforcement
CORRESPONDENCE ACTION REQUEST**

AUTHOR: Ray Andrews **DATE SUBMITTED:** 2/25/18 **SECRETARY:** CT 3/4/19

ACTIONS REQUIRED: Proof, format, concurrence, and mail upon return

DEADLINE FOR MAILING: 3/4/18

CERTIFIED MAIL: (YES) NO

OVERNIGHT MAIL: YES (NO)

SPECIAL INSTRUCTIONS:

Send E-mail Notification of Dissemination to R. Andrews Only
Hard copies are not required. Thanks.

SIGNER: Ed Kowalski ☒ Jeff KenKnight ☐

FILE NAME: N:\APPS\OCE\Water & Wetlands Enf Unit\Andrews\Black Canyon Trout Farm\IDG130113 BCTF (NOV).docx

CONCURRENCES						
Initials:	NA	JK				
Name:	Andrews	KenKnight				
Date:	4 Mar 19	3/4/19				

ADDITIONAL DISTRIBUTION:

cc: ✓ Mr. Tyler Fortunati
IDEQ, Compliance, Inspection and Enforcement Lead
tyler.fortunati@deq.idaho.gov
✓ Mr. Bruce Olenick
IDEQ, Pocatello Regional Administrator
bruce.olenick@deq.idaho.gov
✓ Ms. Maria Lopez
EPA, Idaho Operations Office
lopez.maria@epa.gov

E-MAIL ADDRESS: _____
(Optional) _____

WHERE TO FILE: Official/Program: X
Chrono: X
Other: